

BILL ANALYSIS

Senate Research Center

S.B. 730
By: Harris
Criminal Justice
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Enrolled

DIGEST AND PURPOSE

During the 76th Legislature, legislation was enacted to merge the laws governing dismissal of traffic tickets. Previously, the laws had been divided between the Transportation Code and the Code of Criminal Procedure and some of the provisions were in conflict. These laws were merged by two separate bills and placed in the Code of Criminal Procedure. However, these two bills created some problems, such as blurring the lines between deferred disposition and driving safety dismissals, and commercial drivers were inadvertently excluded from the driving safety program. S.B. 730 streamlines procedures, eliminates ambiguities, restores commercial drivers' rights to driving safety dismissal, and makes a clear distinction between deferred disposition and a driving safety dismissal.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 543.004, Transportation Code, as follows:

Sec. 543.004. New heading: NOTICE TO APPEAR REQUIRED. Provides that the issuance of a written notice to appear as provided by Section 543.003 is mandatory and requires an officer to issue a written notice to appear except under certain circumstances, as provided by this section. Deletes text regarding an offense of speeding or a violation of the open container law. Provides that this section does not require an officer to issue a written notice to appear under certain circumstances. Deletes text that provides the offenses specified by this section are the only offenses for which issuance of a written notice to appear is mandatory.

SECTION 2. Amends Article 14.06, Code of Criminal Procedure, to authorize a peace officer who is charging a person with committing an offense that is a Class C misdemeanor, other than an offense under Section 49.02, Penal Code, or a traffic offense, to provide to the person written notice regarding the time and place to appear before a magistrate, the name and address of the person charged, and the offense charged, instead of taking the person before the magistrate, if the person displays certain information. Provides that if a person charged as described by this section is a resident of or is operating a vehicle licensed in a state or country other than this state, the section applies only as provided by Chapter 703, Transportation Code. Provides that this section does not require a peace officer to issue a citation and allows for the person to be taken before the magistrate under certain circumstances.

SECTION 3. Reenacts and amends Article 45.051, Code of Criminal Procedure (formerly Article 45.54, Code of Criminal Procedure, redesignated as Article 45.051 by Chapter 1545, Acts of the 76th Legislature, Regular Session, 1999), as amended by Chapters 532, 1387, and 1545, Acts of the 76th Legislature, Regular Session, 1999, as follows:

Art. 45.051. SUSPENSION OF SENTENCE AND DEFERRAL OF FINAL DISPOSITION. Authorizes the judge, rather than justice, at the judge's discretion and during the deferral period, to require the defendant to complete a driving safety course approved under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), V.T.C.S.) or another course as directed by the judge. Requires the defendant to present to the court satisfactory evidence that the defendant has complied with the requirements

imposed by the judge under this article before the conclusion of the deferral period. Requires the judge, if satisfactory evidence is timely presented to the judge, to dismiss the complaint, and requires that it be clearly noted in the docket that the complaint is dismissed and there is no final conviction. Deletes text regarding the adjudication of guilt. Provides that this article does not apply to an offense to which Section 542.404 (General Provisions) or Section 729.004(b) (Operation of Motor Vehicle by Minor), Transportation Code, applies. Provides that this article does not apply to a person who holds a commercial driver's license and commits certain offenses. Defines "serious traffic violation." Makes conforming changes.

SECTION 4. Reenacts and amends Article 45.0511, Code of Criminal Procedure, as added by Chapter 1545, Acts of the 76th Legislature, Regular Session, 1999, as follows:

Art. 45.0511. New heading: DRIVING SAFETY COURSE OR MOTORCYCLE OPERATOR COURSE DISMISSAL PROCEDURES. (a) Provides that this article applies only to an alleged offense that is within the jurisdiction of a justice court or a municipal court, involves the operation of a motor vehicle, which is defined by Section 472.022 (Miscellaneous Provisions), rather than 522.003, Transportation Code, Title 7C (Rules of the Road), Transportation Code, or Section 729.001(a) (3) (Operation of Motor Vehicle by Minor), Transportation Code. Deletes reference to supplementing Article 45.051. Deletes phrase "other than a commercial motor vehicle."

(b) Requires the judge to require the defendant to successfully complete a driving safety course approved by the Texas Education Agency or a course under the motorcycle operator training and safety program approved by the designated state agency under Chapter 662 (Motorcycle Operator Training and Safety), Transportation Code, if the defendant, rather than person, performs certain requirements. Deletes text regarding certain actions by the defendant. Deletes text regarding the plea of the defendant.

(c) Requires the court to enter judgment on the defendant's plea of no contest or guilty at the time the plea is made, defer imposition of the judgment, and allow the defendant a specific amount of time to complete and show proof of completing a driving safety course or motorcycle operator training course, including certain other information.

(d) Authorizes the court, notwithstanding Subsections (b) (2) and (3), rather than Subsection (c) (1) on a written motion submitted to the court, before the final disposition of the case, to grant a request to take a driving safety course or a motorcycle operator training course under this article.

(e) Makes conforming changes.

(f) Authorizes the court, in addition to court costs and fees authorized or imposed by a law of this state and applicable to the offense, to require the defendant to pay certain fees.

(g) Makes a conforming change.

(i) Requires the court, if a defendant requesting a course, rather than driving safety course, fails to comply with Subsection (c) (1) or (2), to notify the defendant in writing, mailed to the address on file with the court or appearing on the notice to appear, of that failure. Makes conforming changes.

(j) Requires the court to enter an adjudication of guilt and impose a sentence, if the defendant fails to appear at the time and place stated in the notice under Subsection (i), or appears at the time and place stated in the notice but does not show good cause for the defendant's failure to comply with Subsections (c) (1) and (2). Deletes text regarding the committing of a misdemeanor.

(k) Makes conforming changes.

(l) Deletes text regarding the compliance with Subsection (b) and regarding uniform certificate. Makes conforming changes.

(o) Makes a conforming change.

(p) Requires the court to advise a defendant charged with a misdemeanor under Section 472.022 (Obeying Warning Signs), Transportation Code, Title 7C (Rules of the Road), Transportation Code; or Section 729.001(a) (3) (Operation of Motor Vehicle by Minor in Violation of Traffic Laws; Offense), Transportation Code, committed while operating a motor vehicle of the defendant's right under this article to successfully complete certain safety courses. Provides that the right to complete a course does not apply to a defendant charged with a violation of Section 545.066 (Passing a School Bus), 550.022 (Accident Involving Damage to Vehicle), or 550.023 (Duty to Give Information and Render Aid), rather than 545.401 and 545.421, Transportation Code; or an offense to which Section 542.404 (Fine for Offense in Construction or Maintenance Work Zone) or 729.004(b) (Fine for Offense in Construction or Maintenance Work Zone), Transportation Code, applies. Deletes "as defined by Section 522.003, Transportation Code."

(q) Provides that a notice to appear issued for an offense to which this article applies must inform a defendant charged with an offense under sections referred to in Subsection (p), committed while operating a motor vehicle, of the defendant's right to complete certain safety courses. Requires the notice to contain specific wording.

(r) Authorizes the defendant, if the notice required by Subsection (q) is not provided to the defendant charged with the offense, to continue to exercise the defendant's right to take certain safety courses until the notice required by Subsection (q) is provided to the defendant or there is a final disposition of the case.

(s) Makes conforming changes.

(t) Makes conforming changes.

SECTION 5. Amends Section 472.022(f), Transportation Code, to provide that Articles 45.051 (Suspension of Sentence and Deferral of Final Disposition) and 45.0511 (Driving Safety Course or Motorcycle Operator Dismissal Procedures), rather than Article 45.54, Code of Criminal Procedure, do not apply to an offense under this section committed in a construction or maintenance work zone when workers are present.

SECTION 6. Repealers:

- Article 45.541 (Deferred Disposition Procedures Applicable to Traffic Offenses), Code of Criminal Procedure, as added by Chapter 1387, Acts of the 76th Legislature, Regular Session, 1999;
- Section 543.101 (Statement of Right Provided on Notice to Appear), Transportation Code; and
- Section 543.117 (Offense in Construction or Maintenance Work Zone), Transportation Code.

SECTION 7. Effective date: September 1, 2001.

Makes application of this Act prospective.